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SENATE BILL 68

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Rod Adair

AN ACT

RELATING TO DOMESTIC VIOLENCE; INCREASING PENALTIES FOR THREE OR MORE BATTERIES OR AGGRAVATED BATTERIES AGAINST CERTAIN HOUSEHOLD MEMBERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-3-15 NMSA 1978 (being Laws 1995, Chapter 221, Section 6, as amended) is amended to read:

"30-3-15. BATTERY AGAINST A HOUSEHOLD MEMBER.--

A. Battery against a household member consists of the unlawful, intentional touching or application of force to the person of a household member, when done in a rude, insolent or angry manner.

B. Whoever commits battery against a household member is guilty of a misdemeanor.

C. Upon conviction pursuant to this section, an

underscored material = new
[bracketed material] = delete

1 offender shall be required to participate in and complete a
2 domestic violence offender treatment or intervention program
3 approved by the children, youth and families department
4 pursuant to rules promulgated by the department that define the
5 criteria for such programs.

6 D. Notwithstanding any provision of law to the
7 contrary, if a sentence imposed pursuant to this section is
8 suspended or deferred in whole or in part, the period of
9 probation may extend beyond three hundred sixty-four days but
10 may not exceed two years. If an offender violates a condition
11 of probation, the court may impose any sentence that the court
12 could originally have imposed and credit shall not be given for
13 time served by the offender on probation; provided that the
14 total period of incarceration [~~may~~] shall not exceed three
15 hundred sixty-four days and the combined period of
16 incarceration and probation [~~may~~] shall not exceed two years."

17 Section 2. Section 30-3-16 NMSA 1978 (being Laws 1995,
18 Chapter 221, Section 7, as amended) is amended to read:

19 "30-3-16. AGGRAVATED BATTERY AGAINST A HOUSEHOLD
20 MEMBER.--

21 A. Aggravated battery against a household member
22 consists of the unlawful touching or application of force to
23 the person of a household member with intent to injure that
24 person or another.

25 B. Whoever commits aggravated battery against a

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[bracketed material] = delete

1 household member by inflicting an injury to that person that is
2 not likely to cause death or great bodily harm, but that does
3 cause painful temporary disfigurement or temporary loss or
4 impairment of the functions of any member or organ of the body,
5 is guilty of a misdemeanor.

6 C. Whoever commits aggravated battery against a
7 household member by inflicting great bodily harm or doing so
8 with a deadly weapon or doing so in any manner whereby great
9 bodily harm or death can be inflicted is guilty of a third
10 degree felony.

11 D. Upon conviction pursuant to Subsection B of this
12 section, an offender shall be required to participate in and
13 complete a domestic violence offender treatment or intervention
14 program approved by the children, youth and families department
15 pursuant to rules promulgated by the department that define the
16 criteria for such programs.

17 E. Notwithstanding any provision of law to the
18 contrary, if a sentence imposed pursuant to the provisions of
19 Subsection B of this section is suspended or deferred in whole
20 or in part, the period of probation may extend beyond three
21 hundred sixty-four days but may not exceed two years. If an
22 offender violates a condition of probation, the court may
23 impose any sentence that the court could originally have
24 imposed and credit shall not be given for time served by the
25 offender on probation; provided that the total period of

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[bracketed material] = delete

1 incarceration [~~may~~] shall not exceed three hundred sixty-four
2 days and the combined period of incarceration and probation
3 [~~may~~] shall not exceed two years."

4 Section 3. A new section of the Crimes Against Household
5 Members Act is enacted to read:

6 "[NEW MATERIAL] MULTIPLE CONVICTIONS OF BATTERY OR
7 AGGRAVATED BATTERY.--

8 A. Whoever commits three offenses of battery
9 against a household member as provided in Section 30-3-15 NMSA
10 1978 or aggravated battery against a household member as
11 provided in Subsection B of Section 30-3-16 NMSA 1978, or any
12 combination thereof, when the household member is a spouse, a
13 former spouse, a co-parent of a child or a person with whom the
14 offender has had a dating or intimate relationship is guilty of
15 a fourth degree felony.

16 B. Whoever commits four or more offenses of battery
17 against a household member as provided in Section 30-3-15 NMSA
18 1978 or aggravated battery against a household member as
19 provided in Subsection B of Section 30-3-16 NMSA 1978, or any
20 combination thereof, when the household member is a spouse, a
21 former spouse, a co-parent of a child or a person with whom the
22 offender has had a dating or intimate relationship is guilty of
23 a third degree felony."

24 Section 4. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2008.

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